FILED
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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [signature] DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
JOSE GONZALEZ-ALVAREZ
Defendant.

Magistrate Case No. 07MJ2625

DETENTION ORDER

A. Order For Detention
After conducting a detention hearing pursuant to 18 U.S.C. § 3142(f) of the Bail Reform Act, the Court orders the above-named defendant detained pursuant to 18 U.S.C. § 3142(e) and (i).

B. Statement of Reasons For The Detention
The Court orders the defendant's detention because it finds:
__✓__ By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required.
______ By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person and the community.

C. Finding Of Fact
The Court's findings are based on the evidence which was presented to Court and that which was contained in the pretrial Services report, and includes the following:
______ (1) Nature and circumstances of the offense charged:
_X____ (a) The offense charged is:

21 USC 841 (a)(1)

______ (b) The offense is a crime of violence.
______ (c) The offense involves a narcotic drug.
______ (d) The offense involves a large amount of controlled substances, to wit: ______________________
__✓__ (2) The weight of the evidence against the defendant is strong.
__✓__ (3) The history and characteristics of the defendant including:
(a) General Factors:
______ The defendant appears to have a mental condition which may affect whether the defendant will appear.
______ The defendant has no family ties in the area.

✓ The defendant has no steady employment.
✓ The defendant has no substantial financial resources.
✓ The defendant is not a long time resident of the community.
✓ The defendant does not have any significant community ties.
_____ Past conduct of the defendant: _____

_____ The defendant has a history relating to drug abuse.
_____ The defendant has a history relating to alcohol abuse.
_____ The defendant has a significant prior criminal record.
_____ The defendant has a prior record of failure to appear at court proceedings.

(b) Whether the defendant was on probation, parole, or release by a court:
At the time of the current arrest, the defendant was on:
_____ Probation
_____ Parole
_____ Release pending trial, sentence, appeal or completion of sentence.

(c) Other Factors:
✓ The defendant is an illegal alien and is subject to deportation.
_____ The defendant is a legal alien and will be subject to deportation if convicted.
_____ Other: _____

_____ (4) The nature and seriousness of the danger posed by the defendant's release are as follows: _____

✓ (5) Rebuttable Presumptions

In determining that the defendant should be detained, the Court also relied on the following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) which the Court finds the defendant has not rebutted:

✓ a. That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other person and the community because the Court finds that the crime involves:

_____ (A) A crime of violence; or
_____ (B) An offense for which the maximum penalty is life imprisonment or death; or
✓ (C) A controlled substance violation which has a maximum penalty of 10 years or more; or
_____ (D) A felony after the defendant had been convicted of two or more prior offenses described in (A) through (C) above, and the defendant has a prior conviction for one of the crimes mentioned in (A) through (C) above which is less than five years old and which was committed while the defendant was on pretrial release.

_____ b. That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable cause to believe:

_______ (A) That the defendant has committed a controlled substance violation which has a maximum penalty of 10 years or more.

_______ (B) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device).

D. Additional Directives

Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and

The defendant be afforded reasonable opportunity for private consultation with counsel; and,

That, on order of a court of the United States, or on request of an attorney for the Government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

This order is made without prejudice to modification by this Court and without prejudice to the Defendant's exercise of the right to bail.

Dated: NOVEMBER 13, 2007

CATHY ANN BENCIVENGO
United States Magistrate Judge